

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

ANTHONY RAY DAILEY §
VS. § CIVIL ACTION NO. 1:24-CV-165
WARDEN, FCC BEAUMONT §

ORDER OVERRULING PETITIONER'S OBJECTIONS ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Petitioner Anthony Ray Dailey, a prisoner confined at the Federal Correctional Complex in Beaumont, Texas, proceeding *pro se*, filed this Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241.

The Court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this Court. The magistrate judge recommends denying the Petition.

The Court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such order, along with the record, pleadings and all available evidence. Petitioner filed Objections to the Report and Recommendation of United States Magistrate Judge.

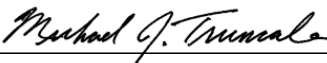
The Court has conducted a *de novo* review of the Objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). Petitioner claims that the magistrate judge incorrectly concluded that he was convicted of use and carry of a firearm during a crime of violence in cause number 6:04-CR-67. In fact, the magistrate judge noted that Petitioner had been *indicted* for use and carry of a firearm in cause number 6:04-CR-67, which is supported by the record. (ECF No. 12-1

at 18-19.) Citing *Setser v. United States*, 566 U.S. 231 (2012), Petitioner claims that the sentencing court has discretion to run sentences concurrently or consecutively. In this case, the district court exercised that discretion by determining that the sentences should run consecutively. After careful consideration, the Court concludes the Objections are without merit.

ORDER

Accordingly, Petitioner's Objections [Dkt. 17] are OVERRULED. The findings of fact and the conclusions of law of the magistrate judge are correct, and the magistrate judge's Report and Recommendation [Dkt. 15] is ADOPTED. A final judgment will be entered in this case in accordance with the magistrate judge's recommendation.

SIGNED this 9th day of January, 2025.



Michael J. Truncala
United States District Judge